



## Notice of Allowability

Application No.	Applicant(s)
09/893,122	MOSTAFAVI, HASSAN
Craig E. Church	Art Unit 2882

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 1/16/04.
2.  The allowed claim(s) is/are 1-16,26-49,51-53,55-59.
3.  The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some\*    c)  None    of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
(a)  including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.  
(b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of  
Paper No./Mail Date \_\_\_\_\_.  
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date 3/1/04.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

*Craig E. Church*

Craig E. Church  
Senior Examiner  
Art Unit: 2882



Interview Summary	Application No.	Applicant(s)
	09/893,122	MOSTAFAVI, HASSAN
Examiner	Art Unit	
Craig E. Church	2882	

All participants (applicant, applicant's representative, PTO personnel):

(1) Craig E. Church.

(3) \_\_\_\_\_

(2) Mr. Chan.

(4) \_\_\_\_\_

Date of Interview: 3/1/04.

Type: a) Telephonic b) Video Conference  
c) Personal [copy given to: 1) applicant  
2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.

If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: \_\_\_\_\_.

Identification of prior art discussed: \_\_\_\_\_.

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant was advised that case was being allowed.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

- Return Postcard.
- The Commissioner is authorized to charge Bingham McCutchen's Deposit Account No. **50-2518** for any fees required under 37 CFR §§ 1.16, 1.17 and 1.445 that are not covered, in whole or in part and to credit any overpayments to said Deposit Account No. **50-2518**.

Respectfully submitted,

BINGHAM McCUTCHEN LLP

Dated: April 6, 2004

By:

  
Gerald Chan  
Reg. No. 51,541

BINGHAM McCUTCHEN LLP  
Three Embarcadero, Suite 1800  
San Francisco, CA 94111-4067  
(650) 849-4824



APR 09 2004

Patent  
VM7012092001

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
Hassan Mostafavi ) Group Art Unit: 2882  
Serial No.: 09/893,122 )  
Filed: June 26, 2001 )  
For: METHOD AND SYSTEM FOR )  
PREDICTIVE PHYSIOLOGICAL )  
GATING )

### LETTER TO EXAMINER TRANSMITTAL

Mail Stop: Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Transmitted herewith, for the above-identified application, is the following:

- Letter to Examiner (2 pages);
- Copy of PTO Notice of Allowance and Fee(s) Due with attached PTO-1449; and
- Copy of publication: Jolesz, Ferenc M.D., et al., "Image-Guided Procedures and the Operating Room of the Future"; *Radiology; SPL Technical Report #48*; May 1997: 204:601-612.

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### CERTIFICATE OF MAILING TRANSMISSION (37 C.F.R. §1.8)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposit with the United States Postal Services on the date shown below with sufficient postage as "First Class Mail" to addressee in an envelope addressed to Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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April 6, 2004

Date of deposit

Carolyn Tobias

Name of Person transmitting Paper

Signature of Person depositing Paper



PATENT  
VM7012092001

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of: ) Group Art Unit: 2882  
                          ) )  
Hassan Mostafavi      ) Examiner: Church, Craig E.  
                          ) )  
Serial No.: 09/893,122 ) )  
                          ) )  
Filed: June 26, 2001   ) )  
                          ) )  
For: METHOD AND SYSTEM FOR )  
PREDICTIVE PHYSIOLOGICAL )  
GATING                  ) )

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**LETTER TO EXAMINER**

Mail Stop: Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicant has recently received the Notice of Allowance and Fee(s) due for the above-identified patent application. Attached to the Notice is the Examiner's review of form PTO-1449 submitted on January 14, 2002 as an attachment to a Supplemental Information Disclosure Statement for this application. Applicant notes that the publication listed on the second page of PTO Form 1449 has been crossed out by the Examiner and noted, "copy not of record". However, the subject reference, Jolesz, Ferenc M.D., et al., "Image-Guided Procedures and the Operating Room of the Future"; *Radiology; SPL Technical Report #48*; May 1997: 204:601-612, was previously cited in U.S.S.N. 9/712,724 (now U.S.P.N. 6,690,965), an application from which S.N. 09/893,122 claims priority. As such, the subject reference should already be a part of the record for U.S.S.N. 09/893,122. For the foregoing, Applicant respectfully requests that the reference be considered for S.N. 09/893,122. A copy

of the publication is enclosed for your convenience. If the Examiner has any questions or comments, the Examiner is respectfully requested to contact the undersigned at the number listed below.

Respectfully submitted,

Date: 4/6, 2004

By: Gerald Chan  
Gerald Chan  
Reg. No. 51,541

Bingham McCutchen LLP  
Three Embarcadero Center, Suite 1800  
San Francisco, CA 94111-4067  
Telephone: (650) 849-4960  
Facsimile: (650) 849-4800

## Summary of Record of Interview Requirements

### **Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record**

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### **Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)**

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

### **37 CFR §1.2 Business to be transacted in writing:**

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### **Examiner to Check for Accuracy**

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.